

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

**BEFORE:**

**MR. JUSTICE MIRAN MUHAMMAD SHAH**

**MR. JUSTICE MUHAMMAD HASAN (AKBER)**

Criminal Accountability Acquittal Appeal No. D-35 of 2018

Appellant : Muhammad Siddique Jahejo, In-person.  
Respondent No.1 to 8 : Nemo  
Respondents No.9 : The State, through Ms. Shahida Ghani,  
Special Prosecutor NAB.  
Dates of hearing: : 06.03.2025  
Date of Decision: : 11.04.2025.

**JUDGMENT**

**MUHAMMAD HASAN (AKBER), J.-** The instant Criminal Acquittal Appeal has been filed under section 32 of the National Accountability Ordinance 1999 (**Ordinance 1999**) against the Judgment dated 10.11.2018 passed in Reference No.18 of 2016, whereby Respondents 1 to 8 have been acquitted by the learned Accountability Court at Hyderabad. Concisely, facts alleged in the Reference are that the accused persons were allegedly involved in illegal appointments in the year 2012 in the Education Department, District Matiari. Investigation was initiated and Reference No.18 of 2016 was filed against the accused persons, wherein a full-dressed trial was conducted where after, the learned Accountability Court acquitted the accused persons.

2. This is a seven-year old appeal and despite calling of the matter twice, the appellant was called absent. Learned special prosecutor NAB states that although NAB has also challenged the impugned Judgment through its independent Acquittal Appeal(s) which is pending adjudication, however she objects to the instant appeal on the ground that the Appellant is neither an accused, nor an aggrieved person nor has any right to file this appeal, as envisaged under section 32 of the Ordinance 1999, to file this appeal, which is also without permission from Chairman NAB. Hence, the preliminary question which needs to be attended pertains to the maintainability of the instant appeal *qua, locus standi* of the appellant to file this appeal.

3. The Office of this Court has also raised *inter alia*, two substantial objections, one pertaining to *locus standi* of the Appellant, and secondly pertaining to the appeal being barred by limitation. Taking up the first objection



regarding *locus standi* of the appellant, Section 32(a) of the Ordinance provides that

**"32. Appeal.--(a)** Any party to the proceedings aggrieved by the final judgment and order of the Court under this Ordinance may, within ten days of the final Judgment and order of the Accountability Court prefer an appeal to the High Court of the Province where the Court is situated."

4. Ordinance 1999 is a special law against offences of corruption and corrupt practices and a bare reading of its various provisions reflect the intention of the legislature to provide a special dispensation/ legal framework for investigation, trial and prosecution of cases under the NAB Ordinance. A few examples of the same can be found, *inter alia* in for instance, section 25 of the NAB Ordinance which provides for voluntary return and plea bargain whereas section 26 authorizes the Chairman NAB to grant pardon as envisaged under the said provision. On the contrary, there are no provisions which are analogous to the same in the general law. Likewise, section 16-A of the Ordinance was intended to lay down a special procedure to seek transfer of a case on specified grounds, thereby granting certain rights to the Chairman NAB, the Special Prosecutor-General Accountability, and to the accused. Section 18(b) (ii) of the Ordinance could yet be another example, empowering Chairman NAB or an officer authorized by him, to initiate proceedings against any person "on receipt of a complaint". Under the entire Ordinance, no right has been conferred upon a complainant even to take charge of the proceedings which are initiated by the Chairman NAB or to effect representation independently. The scheme of the subject law in this respect is so rigid, that it does not even permit the Accountability Court to take cognizance of any offence, unless the same has been referred by the Chairman NAB, or by an officer, duly authorized by the Chairman. While analyzing the above provisions, it appears that the rationale is to limit certain rights, only to those who are directly involved in a case under the Ordinance, so as to prevent and avoid vexatious and frivolous proceedings. Reliance in this regard is placed upon '*Capt. (Retd.) Nayyar Islam V. Judge, Accountability Court No.III and others*'<sup>1</sup>.

5. Considering the above discussed scheme under the Ordinance, the right of appeal under section 32 has been conferred only upon a "party to the proceedings", a convict, or on the Prosecutor General, Accountability, and that too, subject to directions issued by the Chairman NAB. The Ordinance therefore clearly limits the rights to only those, who are directly involved in the

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1. 2012 S C M R 669



proceedings. Same view was taken in the case of '*State v. Fazal Ahmed and others*'<sup>2</sup>, wherein this Court after examining the provisions of section 32 in conjunction with section 8(d) of Ordinance 1999, dismissed the appeal filed by a person who did not figure anywhere under section 32 of Ordinance 1999.

6. In addition to the above, perusal of section 32 of Ordinance 1999 reflects that no right of appeal has been conferred even upon a complainant, and even in those cases which are initiated on the basis of a private complaint, the right of appeal has been exclusively conferred upon the Chairman NAB or the convict, which leads us to the conclusion that in certain situations, the Ordinance limits its application only to those who are provided with right of appeal. Support in this regard is taken from '*Naseem Abdul Sattar and 6 others v. Federation of Pakistan and 4 others*'<sup>3</sup>.

7. in the present case, the learned special prosecutor NAB has therefore rightly pointed out that the Appellant is neither an accused, nor an aggrieved person nor has any right to file an appeal under section 32 of the Ordinance 1999. Perusal of Record also confirms such position. Needless to reiterate the principle that when law provides a thing to be done in a particular manner, it shall to be done in that manner, or not done at all.

8. We are, therefore, convinced with the argument of the learned Special Prosecutor and have no hesitation to hold that the appellant has no *locus standi* under section 32 of the Ordinance 1999 to file this appeal, which cannot be entertained and, the same is therefore, dismissed. It is however clarified that the observations made herein are only to the extent of this appeal, and the same shall not in any manner, have any impact on the appeals filed by the NAB or the other accused persons, against the same Judgment which has been impugned herein. The assistance provided by the learned Special Prosecutor in this case is commendable.

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2. SBLR 2013 (Sindh) 489

3. PLD 2013 Sindh 357



9. These are the reasons for dismissal of this appeal, which was heard and decided on 06.03.2025 with the following short Order:

"The Appellant is called absent who was appearing in person in this appeal. Heard learned Special Prosecutor NAB on the maintainability of the appeal, who has argued at length submitting that under section 32 of the National Accountability Ordinance 1999, the appeal against an Order passed by the Accountability Court could only be filed by an aggrieved person or by the Prosecutor General NAB with permission from the Chairman. The present appellant was not even an accused in the subject Reference hence not an aggrieved person, in terms of section 32 of the Ordinance 1999. For reasons to follow, this Criminal Accountability Appeal is therefore dismissed, without having any impact on the other appeals and proceedings, with respect to the subject Reference and the impugned Judgment dated 10.11.2018."

JUDGE

JUDGE